# BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	David E. Sunstead	)	
	Map 085-14-0-A, Parcel 33CO	)	
	Residential Property	)	Davidson County
	Tax year 2005	)	

### INITIAL DECISION AND ORDER

## Statement of the Case

The Metropolitan Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$48,000	\$236,200	\$284,200	\$71,050

On July 27, 2005, the State Board of Equalization ("State Board") received an appeal by the property owner.

The undersigned administrative judge conducted a hearing of this matter on May 17, 2006 in Nashville. In attendance at the hearing were the appellant, David E. Sunstead, and Davidson County Property Assessor's representative Jason Poling.

# Findings of Fact and Conclusions of Law

This appeal concerns a three-bedroom, 2.5-bath residence in the Rivercrest subdivision, located in the Donelson area. Built in 1999 on a 0.15-acre lot, this brick home contains 3,337 square feet of living area; three fireplaces; and an attached three-car garage. The appellant purchased the house in September, 1999 for \$254,450.

As explained in Mr. Sunstead's letter of June 24, 2005 to the county board, access to the subject property from Lebanon Pike is hindered by its heavy traffic. He attributed the rather sluggish sales of homes in this subdivision partially to that factor. In this regard, Mr. Sunstead noted how long two homes on Rivercrest Court had remained on the market before finally selling in December, 2002 and May, 2005 for \$215,000 and \$248,500, respectively. He believed that a \$4,000 increase from the \$258,000 valuation of this property in the previous (2001) county-wide reappraisal would be "not only fair and equitable," but also "a reasonable and more accurate appraisal."

On the Assessor's behalf, Mr. Poling submitted a grid listing the physical characteristics of the subject property and three smaller Rivercrest homes that sold during 2003.<sup>1</sup> The actual sale prices ranged only from \$225,000 to \$255,000; however, the Assessor's representative time-adjusted the per-square-foot sale prices (less the \$48,000 attributed to the lots) by a factor

<sup>&</sup>lt;sup>1</sup>Apparently, no sales occurred in the Rivercrest subdivision in 2004.

of 6% per annum.<sup>2</sup> In his view, this comparative sales information supported the determination of the county board.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayer seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Respectfully, after reviewing all the evidence of record, the administrative judge finds insufficient grounds for adoption of the appellant's propounded value. The State Board's Assessment Appeals Commission has repeatedly proclaimed that the amount or percentage by which an appraisal of property may have increased is irrelevant to a determination of the market value of such property. See, e.g., <u>E. B. Kissell, Jr.</u> (Shelby County, Tax Years 1991 & 1992, Final Decision and Order, June 29, 1993). Moreover, assuming that Mr. Sunstead bought the subject property at market value in 1999, it seems improbable that it would have appreciated by less than 2% over the ensuing period of more than five years.

As for the Rivercrest sales cited by the taxpayer, too little is known about the size and features of those homes to ascertain their degree of similarity to the subject property. One of those transactions, it should be added, occurred *after* the January 1, 2005 reappraisal date.

### <u>Order</u>

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$48,000	\$236,200	\$284,200	\$71,050

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the

<sup>&</sup>lt;sup>2</sup>Mr. Poling also made lesser adjustments to the comparable sale prices for age/condition and construction/size. It should be noted that his market analysis was based on the "weighted area" of each house. *Weighted area* is a measurement by which substantially different improvements may be meaningfully compared. The square footage of each portion of the building (e.g., basement; attic; garage) is "weighted" according to a percentage of the adjusted base rate corresponding to the estimated construction cost.

appeal "identify the allegedly erroneous finding(s) of fact and/or

conclusion(s) of law in the initial order"; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for

seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7<sup>th</sup> day of June, 2006.

PETE LOESCH

ADMINISTRATIVE JUDGE TENNESSEE DEPARTMENT OF STATE ADMINISTRATIVE PROCEDURES DIVISION

cc: David E. Sunstead
Jo Ann North, Assessor of Property

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